

BILL ANALYSIS

Senate Research Center

C.S.H.B. 1406
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Education
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Committee Report (Substituted)

DIGEST AND PURPOSE

Currently, Texas law does not prevent a school district employee from making a student's enrollment in school or participation in school related activities contingent on the use of psychotropic drugs or psychiatric evaluation. C.S.H.B. 1406 prohibits a school district employee from recommending psychiatric evaluation or the use of a psychotropic drug or suggesting a particular diagnosis for a student. The bill also prevents a school district employee from using the parent's refusal to consent to administer a psychotropic drug as grounds for prohibiting the student to attend a class or participate in a school related activity. C.S.H.B. 1406 also provides that certain school-related medical professionals are not prohibited from recommending that a child be evaluated by an appropriate medical practitioner.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 38, Education Code, by adding Section 38.016, as follows:

Sec. 38.016. PSYCHOTROPIC DRUGS AND PSYCHIATRIC EVALUATIONS OR EXAMINATIONS. (a) Defines "parent" and "psychotropic drug."

(b) Prohibits a school district employee from recommending that a student use a psychotropic drug, suggest any particular diagnosis, or have a psychiatric evaluation or examination, or use the refusal by a parent to consent to administration of a psychotropic drug to a student or to a psychiatric evaluation or examination of a student as grounds, by itself, for prohibiting the child from attending a class or participating in a school-related activity.

(c) Provides that Subsection (b) does not prevent an appropriate referral under the child find system required under 20 U.S.C. Section 1412, as amended; prohibit a school district employee who is a registered nurse, advanced nurse practitioner, physician, or a certified or appropriately credentialed mental health professional from recommending that a child be evaluated by an appropriate medical practitioner; or prohibit a school employee from discussing any aspect of a child's behavior or academic progress with the child's parent or another school district employee.

(d) Requires the board of trustees of each school district to adopt a policy to ensure implementation and enforcement of this section.

(e) Provides that an act in violation of Subsection (b) does not override the immunity from personal liability granted in Education Code Section 22.051 (Immunity From Liability for Professional Employees) or other law or the district's sovereign and governmental immunity.

SECTION 2. Provides that this Act applies beginning with the 2003-2004 school year.

SECTION 3. Effective date: upon passage or September 1, 2003.